

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ARTHUR LEE HARRIS.

Petitioner,

Civil No. 10cv0966-JLS (RBB)

vs.

MATTHEW CATE, Secretary of the California Department of Corrections and Rehabilitation.

ORDER SUA SPONTE SUBSTITUTING RESPONDENTS

Respondent.

18 On July 1, 2010, Petitioner, a state prisoner proceeding pro se, filed a First Amended
19 Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, naming Bobby Phillips, the
20 Warden of the institution where he was confined, and Edmund G. Brown, the California
21 Attorney General, as Respondents. (Doc. No. 1.) Petitioner has since filed a Notice of Change
22 of address indicating that he has been transferred to another institution. (Doc. No. 12.)

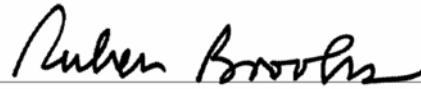
23 A writ of habeas corpus acts upon the custodian of the state prisoner. See 28 U.S.C.
24 § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Because Petitioner's place of confinement has
25 changed, the Warden of the previous institution is no longer a proper Respondent. In addition,
26 the California Attorney General is not a proper Respondent to this action. See Rule 2 (b), 28
27 U.S.C. foll. § 2254. In order to conform with the requirements of Rules 2(a) and 2(b) of the
28 Rules Governing § 2254 Cases and to avoid changing the Respondent again if Petitioner is

1 transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution
2 of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as
3 Respondent in place of “Bobby Phillips” and “Edmund G. Brown.” See Ortiz-Sandoval v.
4 Gomez, 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may
5 be the chief officer in charge of state penal institutions).

6 The Clerk of the Court shall modify the docket to reflect “Matthew Cate, Secretary” as
7 Respondent in place of “Bobby Phillips,” “Edmund G. Brown” and “Ben Curry.”¹

8 **IT IS SO ORDERED.**

9
10 DATED: October 7, 2010



11 Ruben B. Brooks
12 United States Magistrate Judge
13
14 CC: ALL PARTIES
15
16
17
18
19
20
21
22
23
24
25
26

27 ¹ In his original Petition, Petitioner named “Ben Curry” as Respondent. (Doc. No. 1.) In its June 1, 2010 Order
28 dismissing the Petition, the Court instructed Petitioner that “Ben Curry” was not a proper Respondent to this action. (Doc.
No. 4.) Petitioner did not name “Ben Curry” as a Respondent in the First Amended Petition, the operative pleading in this
action. The Clerk shall therefore remove “Ben Curry” as a listed Respondent on the docket.